

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: JGR/Presidential Power to
Convene Congress
Box: 38

To see more digitized collections visit:
<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:
<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>


National Archives Catalogue: <https://catalog.archives.gov/>

THE WHITE HOUSE

WASHINGTON

September 19, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Presidential Power to Convene Congress

Dianna conveyed your request for a memorandum for the President outlining his authority to keep Congress in session or call Congress back from a recess or adjournment. So far as I can determine, the President has no authority to prevent Congress from adjourning. He has complete and unfettered authority, however, to convene either or both Houses at any time.

Pursuant to Article II, Section 3, the President "may, on extraordinary occasions, convene both Houses, or either of them." I have found no cases construing this authority of the President. Hamilton in The Federalist No. 77 simply noted the existence of this power in a laundry list of miscellaneous Executive powers, stating that "no objection has been made to this class of authorities; nor could they possibly admit of any." He went on to state that a President may desire to convene simply the Senate, to obtain its consent to a treaty.

The Constitutional language refers to "extraordinary occasions," but it is accepted that the President may convene Congress for whatever reasons are deemed sufficient by him. B. Schwartz, A Commentary on the Constitution of the United States, Vol. II, p. 23 (1977). Past practice bears this out. Presidents have convened Congress for such purposes as tariff revision, consideration of a ship subsidy bill, and to deal with a housing shortage. A list of the occasions on which the authority has been exercised is contained at Tab A.

The last instance on which a President convened Congress was President Truman's action in 1948. The proclamation accomplishing this is at Tab B.

I am aware of no Presidential authority to keep Congress in session. Article I, Section 7, Clause 3 specifically provides that adjournment resolutions need not be presented

to the President. The President may threaten to convene Congress if it adjourns, to prevent it from doing so. Congress may, of course, convene and then promptly adjourn, but the President would seem to be just as free to reconvene Congress again and again.

Attachment

A COMPLETE LIST OF SPECIALLY CALLED SESSIONS OF CONGRESS
AND WHY THEY WERE CALLED

<u>Date of Session</u>	<u>General Reason Given</u>
1797, May 15	Diplomatic crisis with France <u>1/</u>
1803, October 17	Louisiana Purchase <u>2/</u>
1807, October 26	British aggression <u>3/</u>
1809, May 22	British overtures <u>4/</u>
1811, November 4	British aggression and trade problems <u>5/</u>
1813, May 24	War with Britain <u>6/</u>
1814, September 9	Further appropriations for War <u>7/</u>
1837, September 4	Banking crisis <u>8/</u>
1841, May 13	Condition of the revenue and finances <u>9/</u>
1856, August 21	Lack of Army appropriations <u>10/</u>
1861, July 4	Civil War <u>11/</u>
1877, October 15	Lack of Army appropriations <u>12/</u>
1879, March 18	Lack of Legislative, Executive, Judicial, and Army appropriations <u>13/</u>
1893, August 7	Financial crisis <u>14/</u>
1897, March 15	Condition of the revenue <u>15/</u>
1903, November 9	Convention with Cuba <u>16/</u>
1909, March 15	Revision of the Dingley Tariff Act <u>17/</u>
1911, April 4	Canadian-American reciprocal tariff <u>18/</u>
1913, April 7	Tariff revision <u>19/</u>
1917, April 2	War with Germany <u>20/</u>
1919, May 19	Domestic problems after the War <u>21/</u>
1921, April 11	Domestic problems <u>22/</u>
1922, November 20	Ship subsidy bill <u>23/</u>
1929, April 15	"Farm relief" and "tariff changes" <u>24/</u>
1933, March 9	"Drastic" economies in government <u>25/</u>
1937, November 15	Recession in industrial production <u>26/</u>
1939, September 21	"Repeal the embargo provisions of the neutrality law" <u>27/</u>
*1947, November 17	Emergency aid to Europe <u>28/</u>
*1948, July 26	Deal with inflation and housing shortage <u>29/</u>

*President Truman called Congress back, but this was not counted as a session since Congress had not adjourned sine die.

Title 3—The President

PROCLAMATION 2795

DISPLAY OF THE FLAG AT FORT MCHENRY NATIONAL MONUMENT AND HISTORIC SHRINE

WHEREAS the joint resolution of Congress of June 22, 1942, entitled "Joint Resolution to Codify and Emphasize Existing Rules and Customs Pertaining to the Display and Use of the Flag of the United States of America," as amended by the joint resolution of December 22, 1942, 56 Stat. 1074, contains the following provisions:

Sec. 2. (a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, the flag may be displayed at night upon special occasions when it is desired to produce a patriotic effect.

Sec. 8. Any rule or custom pertaining to the display of the flag of the United States of America, set forth herein, may be altered, modified, or repealed, or additional rules with respect thereto may be prescribed, by the Commander in Chief of the Army and Navy of the United States, whenever he deems it to be appropriate or desirable; and any such alteration or additional rule shall be set forth in a proclamation.

and

WHEREAS Francis Scott Key, after having anxiously watched from afar the bombardment of Fort McHenry throughout the night of September 13, 1814, saw his country's flag still flying in the early morning of the following day; and

WHEREAS this stirring evidence of the failure of the prolonged attack inspired him to write the *Star-Spangled Banner*, our national anthem:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America and Commander in Chief of the Army and Navy, do hereby proclaim that, as a perpetual symbol of our patriotism, the flag of the United States shall hereafter be displayed at Fort McHenry National Monument and Historic Shrine at all times during the day and night, except when the weather is inclement.

The rules and customs pertaining to the display of the flag as set forth in the said joint resolution are modified accordingly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

formalities for the registrations pre- of the act authoriz- f trade-marks used foreign nations or ates or with Indian the same, approved amended (15 U. S. C. countries which ac- treatment in this the United States

RE, I, HARRY S. of the United States nd by virtue of the ne by the aforesaid do find and pro- ect to trade-marks am registered in the Office which have wal on or after Sep- has existed during that date, because g out of World War r suspension of fa- ompliance with the malities prescribed ewal of such regis- 12 of the aforesaid 1905, as amended. strations within the aid act of July 17, accords substantially his respect to trade- o are citizens of the that accordingly the ompliance with con- ties prescribed with of registrations un- the aforesaid act of s amended, may take ended with respect which expired after and before June 30, uding December 31,

HEREOF, I have here- and caused the Seal es of America to be

w of Washington this the year of our Lord hundred and forty- of the Independence ed States of America nd seventy-second.

HARRY S. TRUMAN

L. State.

Chapter I—Proclamation

DONE at the City of Washington this 2nd day of July in the year of our Lord nineteen hundred and forty- [SEAL] eight, and of the Independence of the United States of America the one hundred and seventy-second.

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,
Secretary of State.

WHEREAS the public interest requires that the Congress of the United States should be convened at twelve o'clock, noon, on Monday, the twenty-sixth day of July, 1948, to receive such communication as may be made by the Executive:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim and declare that an extraordinary occasion requires the Congress of the United States to convene at the Capitol in the City of Washington on Monday, the twenty-sixth day of July, 1948, at twelve o'clock, noon, of which all persons who shall at that time be entitled to act as members thereof are hereby required to take notice.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the great seal of the United States.

DONE at the city of Washington this fifteenth day of July, in the year of our Lord nineteen hundred and [SEAL] forty-eight, and of the Independence of the United States of America the one hundred and seventy-third.

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,
Secretary of State.

PROCLAMATION 2797

DEATH OF GENERAL PERSHING

To the People of the United States:

It becomes my sad duty to announce officially the death of John J. Pershing, General of the Armies of the United States, who died at Walter Reed Hospital in Washington, D. C., at 3:50 a. m. on the 15th day of July, 1948.

General life to his distinction his glorious will never as a great a genuine the United achieved a

As a mar- ing's mem- the nation- mast upon all forts stations, a States, un- taken place

IN WIT- unto set of the Un- affixed.

DONE 15th day [SEAL] e the one

By the G. C. Sec

SUPPLEM- CEMBER CARRY- TARIFF- TRADE- TIVELY

WHERE- thority of Tariff Ac- tion 1 of Joint Re- and by s- 5, 1945, Stat. 123- ch. 269; period f- having b- Act of Ju- three ye- 944, ch. U. S. C. 1947 the agreeme- Common- dom of Brazil,

THE WHITE HOUSE

WASHINGTON

September 19, 1985

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: FRED F. FIELDING

SUBJECT: Presidential Power to Convene Congress

I. SUMMARY

As President you have constitutional authority to call Congress back into session or back from recess at any time for any purpose. You have no authority to prevent Congress from adjourning, but the threat of calling Congress back may suffice, as a practical matter, to prevent adjournment.

II. DISCUSSION

The Constitution provides that the President "may, on extraordinary occasions, convene both Houses, or either of them." Article II, Section 3. This authority has been exercised on numerous occasions throughout history. Presidents have convened Congress to deal with a broad range of matters, ranging from the Civil War and the Marshall Plan to ship subsidy legislation and an American-Canadian tariff.

President Truman was the last President to convene Congress, in 1948, as part of his attack on the so-called "do nothing" Congress. The Constitution refers to "extraordinary occasions," but it is accepted that the President himself may judge what constitutes such an occasion to justify convening Congress. There are thus no restrictions on your authority to call Congress back into session or back from recess at whatever time you determine.

You do not, however, have any legal authority to prevent Congress from adjourning. You may, of course, threaten to convene Congress if it adjourns without taking up matters you wish it to consider, and this threat may suffice to prevent Congress from adjourning. There is nothing to prevent Congress from adjourning promptly after reconvening in response to your call, but, by the same token, there is nothing to prevent you from calling Congress back again and again.

FFF:JGR:aea 9/19/85

cc: FFfielding/JGRoberts/Subj/Chron

To John
Date 9/20 Time 4:50

WHILE YOU WERE OUT

M Gary Lawson
of 04C

Phone 633-2044
Area Code Number Extension

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input checked="" type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

RETURNED YOUR CALL ☐

Message _____

Qea
Operator



AMPAD
EFFICIENCY®

23-020

THE WHITE HOUSE

WASHINGTON

September 19, 1985

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
SUBJECT: Presidential Power to Convene Congress

I. SUMMARY

As President you have constitutional authority to call Congress back into session or back from recess at any time for any purpose. You have no authority to prevent Congress from adjourning, but the threat of calling Congress back may suffice, as a practical matter, to prevent adjournment.

II. DISCUSSION

The Constitution provides that the President "may, on extraordinary occasions, convene both Houses, or either of them." Article II, Section 3. This authority has been exercised on numerous occasions throughout history. Presidents have convened Congress to deal with a broad range of matters, ranging from the Civil War and the Marshall Plan to ship subsidy legislation and an American-Canadian tariff.

President Truman was the last President to convene Congress, in 1948, as part of his attack on the so-called "do nothing" Congress. The Constitution refers to "extraordinary occasions," but it is accepted that the President himself may judge what constitutes such an occasion to justify convening Congress. There are thus no restrictions on your authority to call Congress back into session or back from recess at whatever time you determine.

You do not, however, have any legal authority to prevent Congress from adjourning. You may, of course, threaten to convene Congress if it adjourns without taking up matters you wish it to consider, and this threat may suffice to prevent Congress from adjourning. There is nothing to prevent Congress from adjourning promptly after reconvening in response to your call, but, by the same token, there is nothing to prevent you from calling Congress back again and again.

FFF:JGR:aea 9/19/85
cc: FFFielding/JGRoberts/Subj/Chron